

(2012) 07 JH CK 0135

In the Jharkhand High Court

Case No : Writ Petition (C) No. 4864 of 2006

Prabhar Kumar Sinha

APPELLANT

Vs

Director Damodar Vally Corporation, Kolkata and Others

RESPONDENT

Date of Decision : 09-07-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 30

Citation : (2013) 1 AJR 53 : (2012) 4 JCR 557

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Bijay Krishna Pd, for the Appellant; Satish Ughal for the Respondent nos. 1 to 4 and JC to SC(L and C) for the State, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh

1. Heard learned counsel for the parties. This writ petition, on the basis of power of attorney of one Kumar Jitendra Narain Singh, has been preferred alleging that respondent nos. 1 to 4 have occupied 1.14 acres of land appertaining Khata No. 15, Plot No. 1106 out of the total lands measuring 7.64 acres in Village-Nawadih, PS-Muffasil, Thana No. 162, District-Hazaribag although the same was never acquired by the Land Acquisition Department, Hazaribag for the purpose of installation of Electric Sub-Station of DVC, Hazaribag and subsequently, to hand over the excess of land. The petitioner has also prayed for direction upon the respondent nos. 5 and 6 to pay adequate compensation with penal interest for the land of 3.50 acres of said Khata and plot acquired by respondents nos. 5 & 6.

2. Petitioner, on the basis of the power of attorney of one Kumar Jitendra Narain Singh said to be sole heir of Rani Lalit Rajya Lakshmi W/o Late Kamakshya Narain Singh, has filed this writ petition and relying upon the documents at Annexure- 2 and 2A submitted that he is paying rent of certain piece of land and also he further submitted that the land of 1.14 acres is being occupied by the

respondents without any acquisition proceeding which necessitated to file this instant writ petition.

3. From perusal of the Annexure-2, it appears that proceeding in Misc. Case No. 01/03-04 before the Circle Officer, Sadar Hazaribag was registered for rent fixation and the Circle Officer while passing the order recorded that the area of 3.50 acres of land was acquired out of 7.64 acres of land of Khata No. 15, Plot No. 1106 for the purposes of installation of Electric Sub-Station of DVC and area of 1.14 acres of land is out of acquisition for which rent has been fixed.

4. From the submission and on the basis of counter affidavit filed on behalf of the respondents-DVC, it appears that total area of 3.50 acres was acquired for the purposes of establishing Electric Sub-Station of DVC, Hazaribag and after due compliance of the provision of the Land Acquisition Act the certificate of possession was issued in their favour for the said piece of land, vide certificate contained at Annexure-A. The respondents- State have also filed their counter affidavits wherein it has been stated that out of 7.64 Acres of total area of Plot No. 1106, area measuring 0.45 Acres had been acquired vide L.A. Case No. 63/1969-70 and area of same plot measuring 3.05 Acres had been acquired vide L.A. Case No. 7/1978-79 i.e. total area of 3.50 Acres of land had been acquired. It has further been submitted that petitioner himself admitted that there was a Title Suit between the awardee namely Smt. Bimla Devi and Rani Lalita Rajya Lakshmi with regard to the entire lands of Plot No. 1106, which was finally decided in favour of Rani Lalit Rajya Lakshmi in S.A. No. 58/1973 by the Hon'ble Patna High Court, Ranchi Bench, Ranchi. It has further been submitted that for the acquired area of 0.45 Acres of Plot No. 1106, the matter was referred to the Additional Sub-Judge, Hazaribagh u/s 30 of L.A. Act vide letter No. 287/1974 and the same bears LR Case No. 26/1974 and Awarded amount of a sum of Rs. 38024.98 was deposited through Civil Challan in the year 1974.

5. From the aforesaid facts and averments made in the writ petition as well as in the counter affidavit filed on behalf of the parties, it appears that only 3.50 Acres of land of Khata No. 15 of Plot No. 1106 of Village-Nawadih, PS-Muffasil, Thana No. 162, District-Hazaribag was handed over to the Damodar Vally Corporation after acquisition by the respondent authorities. Damodar Vally Corporation categorically stated through their counter affidavit that they have acquired only 3.50 Acres of land for their purposes. From the certificate of possession annexed in the said counter affidavit of the Damodar Vally Corporation and from the averments made in the counter affidavit filed on behalf of the respondent-State, it also appears that the entire exercise contemplated under the Land Acquisition Act has been completed, thereafter certificate of possession of 3.50 Acres of land was given to the Damodar Vally Corporation.

6. In view of the aforesaid facts and circumstances, it appears that petitioner has not been able to establish by any valid piece of evidence or documents that 1.14 Acres of his land is being used by the respondent-DVC beyond 3.50 Acres of land, which was acquired by the DVC in the year 1969-70 out of the said Plot No.

1106 measuring 7.64 Acres in total. In view of the aforesaid facts and circumstances, this Court does not find any reason to grant any relief to the petitioner. Accordingly, this writ petition is dismissed.